

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MICHAEL SHIPLEY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 11-675-CV-W-FJG
)	
INTERSTATE COLLECTIONS UNIT, et al.,)	
)	
Defendants.)	

ORDER

Currently pending before the Court is Plaintiff's Motion for Rule 60(b) and Rule 62(b) to Vacate Order and for Writ of Execution for a Default Judgment (Doc. # 39) and plaintiff's Motion for a Rule 58(a) Judgment (Doc. # 40).

Plaintiff filed his Complaint on July 11, 2011. Defendants filed a Motion to Dismiss plaintiff's Complaint on August 9, 2011 and the Court granted the Motion to Dismiss on December 14, 2011. Plaintiff filed a Notice of Appeal with the Eighth Circuit Court of Appeals on December 19, 2011. On February 16, 2012, the Eighth Circuit entered Judgment affirming the decision of this Court dismissing plaintiff's Complaint and issued its mandate on March 21, 2012.

In his Motion, plaintiff states that on June 11, 2012, he filed a petition for a Writ of Execution and attached a certified copy of the Eighth Circuit Court judgment. Plaintiff argues that this is a "win" for him and that this Court by denying his Motion for a Writ of Execution has altered the outcome of the lawsuit. On June 11, 2012, plaintiff filed such a motion and attached to it a January 23, 2012 Order from the Eighth Circuit Court of Appeals. The Order states in part, "Appellant's motion for default judgment is hereby

ordered taken with the case for consideration by the panel to which this case is submitted for disposition on the merits.” On February 16, 2012, the Eighth Circuit entered Judgment affirming the decision of this Court dismissing plaintiff’s Complaint and issued its mandate on March 21, 2012. (Doc. # 31). The Order from the Eighth Circuit affirming this Court’s dismissal of plaintiff’s Complaint ended the litigation in defendants’ favor. So, contrary to plaintiff’s argument, even though the Eighth Circuit in January stated that it would consider plaintiff’s motion for default judgment when it considered the merits of his case, this motion was effectively denied when the Eighth Circuit on February 16, 2012 affirmed the decision of this Court dismissing plaintiff’s Complaint. This Court has not changed or altered the decision of the Eighth Circuit. Plaintiff instead has failed to comprehend the effect of the Eighth Circuit’s decision. The Eighth Circuit never entered default judgment in plaintiff’s favor, despite plaintiff’s assertions to the contrary. The December 14, 2011 Order of this Court dismissing plaintiff’s Complaint was affirmed by the Eighth Circuit. Accordingly, plaintiff no longer has a case pending in this Court and should refrain from continuing to file pleadings in this case, as this action is now concluded.

Accordingly, the Court hereby **DENIES** plaintiff’s Plaintiff’s Motion for Rule 60(b) and Rule 62(b) to Vacate Order and for Writ of Execution for a Default Judgment (Doc. # 39) and plaintiff’s Motion for a Rule 58(a) Judgment (Doc. # 40).

Date: August 22, 2012
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge